

Applicant: Don S. Rawlings
Filed: September 13, 2004
Page 7 of 15

Examiner: Leonid M. Fastovsky
Serial No.: 10/711,349

REMARKS/ARGUMENTS

Claims 1-20 are pending in the application and stand rejected.

The Abstract has been amended in accordance with the amended claims. Claims 1-7, 9-16, and 18 have been amended.

No new matter has been added by the foregoing amendments, full support therefor being shown in the drawings and specification as filed. All claims remaining in the application are believed to now be in condition for allowance.

Reconsideration and reexamination of the application is respectfully requested in view of the referenced amendments and the following remarks.

Objection to Specification

The Abstract is objected to as allegedly containing an extraneous word "comprises." The objection is respectfully traversed.

The Abstract is replaced in full by an amended Abstract. Thus, the objection is rendered moot by the amended Abstract. Applicant requests withdrawal of the objection.

Rejection Under 35 U.S.C. §102(b)

Claims 1-3, 5-8, and 10-15 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,426,485 to Bulgajewski. The rejection is traversed.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367; 231 USPQ 81 (Fed. Cir. 1986). To anticipate, a single reference must teach each and every limitation of the claimed invention. *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1335; 73 U.S.P.Q.2D (BNA) 1782 (Fed. Cir. 2005). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226; 9 USPQ2d 1913 (Fed. Cir. 1989).

Claim 1, the sole independent claim, has been amended and now calls for a vehicular mirror system comprising an exterior mirror assembly and a power distributor. The mirror assembly includes a reflective element for providing a rearward view to an occupant of the vehicle. The power distributor is capable of distributing power from a single electrical power connector to a plurality of functional elements associated with the reflective element. The power distributor comprises a plurality of electrical leads corresponding to each of the functional elements. The functional elements comprise at least two functional elements selected from a group consisting of a dimming device, a heater and a turn signal. The power distributor comprises at least one power lead for operative connection of the power distributor to an onboard power supply of the vehicle.

Bulgajewski '485 discloses a multi-layered heating assembly for a reflective element of a mirror assembly comprising a pair of spaced buss bars from which extend an array of electrodes corresponding to the area of the reflective element to be heated. A positive temperature coefficient (PTC) electrically resistive material overlays the electrode array and buss bars. Current can flow through the PTC material between the electrodes to cause areas of the heating element to heat. However, current flow through the PTC material will vary with the temperature of the PTC material as a function of the ambient temperature. As the temperature increases, the resistivity will increase until current is no longer able to flow through the PTC material.

A turn signal light array is incorporated into the reflective element. The heating assembly is configured to accommodate the turn signal light array. A pair of electrical terminals is disclosed for attaching a source of current to power the heating assembly. Bulgajewski '485 does not disclose the precise means of powering the turn signal light array. There is no indication that the turn signal light array is powered by current flowing through the electrical terminals powering the heating assembly. The terminals 66, 68 disclosed in Bulgajewski '485 are for connecting the heater element 50 to the power supply, *See, col. 7, ln. 33-35*. Bulgajewski '485 does not disclose or suggest the power distributor of the claims here presented. Thus, Applicant respectfully traverses the Examiner's assertion that the '485 patent discloses a power distributor as such is taught and claimed in the present application.

Bulgajewski '485 does not disclose a power distributor for distributing power from a single electrical power connector to a plurality of functional elements. To show this element of claim 1, Bulgajewski '485 would have to disclose that a single power connector is used to supply both the heating assembly and the turn signal light array. However, this is not disclosed in Bulgajewski '485. At most, Bulgajewski '485 discloses a single power connector supplying only the heating assembly. Thus, Bulgajewski '485 does not disclose each and every element of the claimed invention in as complete detail as is contained in claim 1, and claim 1 is not anticipated by Bulgajewski '485.

Since claims 2, 3, 5-8, and 10-15 depend, directly or indirectly, from claim 1, they are for the same reason not anticipated by Bulgajewski '485. Applicant requests that the rejection be withdrawn, and that claims 1-3, 5-8, and 10-15 be allowed

Rejection Under 35 U.S.C. §103(a)

Claim 4 stands rejected under 35 U.S.C. §103(a) as allegedly obvious over Bulgajewski '485 in view of U.S. Patent No. 6,247,823 to Fuerst et al. The rejection is traversed.

Fuerst '823 discloses a system for sealing electrical connections in the interior of an external vehicular mirror assembly against moisture, dirt, and the like. Fuerst '823 discloses a plurality of electrical connections, each connection supplying current to a separate functional device in the mirror assembly.

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been

obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**¹

A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention**....Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination** that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not "evidence."**

In Re Werner Kotzab, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).

¹ The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).

The combination as asserted in the Office action fails to identify any motivation, suggestion, or teaching in either Bulgajewski '485 or Fuerst '823 of the desirability of combining Bulgajewski '485 and Fuerst '823 to arrive at Applicant's invention. There has been no statement identified in either Bulgajewski '485 or Fuerst '823 as to the desirability of the asserted modification, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teaching of Bulgajewski '485 and Fuerst '823, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner fails to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Bulgajewski '485 and Fuerst '823. The Examiner simply relies upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicant's invention.

Specifically, the assertion that it would have been obvious to "modify Bulgajewski's invention to include a ribbon cable as taught by Fuerst in order to provide a compact and safety [sic] mirror assembly" on Page 3 of the Office action fails to satisfy the legal requirements for supporting an assertion of obviousness. First, the stated purpose of providing a compact and safety [sic] mirror assembly is not found in either Bulgajewski '485 or Fuerst '823. Therefore, the reliance on the stated purpose is unsupportable and the combination fails.

Second, the purpose of Applicant's invention is not to provide a compact and safe mirror assembly. Applicant's invention has absolutely nothing to do with the Examiner's asserted purpose. Rather, the purpose of Applicant's invention is to facilitate the assembly of a rearview mirror system by eliminating multiple wire harnesses and plug-type connectors necessitated by prior art assemblies to accommodate each functional element incorporated into the rearview mirror system. A heater pad, electrochromic dimming element, turn signal element, and other functional elements in the rearview mirror system can be readily integrated and interconnected with the primary wire harness to the rearview mirror system through a single plug connection which can be readily installed during assembly of the rearview mirror. The improved assembly

will provide cost savings in reduced assembly time, and reduced misassembly of the complex prior art mirror system. *See, Application*, ¶32. Compactness and safety are irrelevant to Applicant's invention. Indeed, there is nothing in the Application that even suggests that safety would be enhanced by the use of Applicant's invention.

Even if the combination were proper, the combination of Bulgajewski '485 with Fuerst '823 would not reach Applicant's invention. At best, the combination of Bulgajewski '485 with Fuerst '823 would result in a mirror assembly having a plurality of connectors providing power to individual functional elements, specifically a reflective element and a turn signal indicator, which are sealed against moisture and dirt. However, this is not the invention of claim 4.

As discussed above, Bulgajewski '485 does not disclose a mirror assembly having a power distributor for distributing power from a single electrical power connector to a plurality of functional elements. This element is not provided by Fuerst '823. Claim 4 depends from claim 1. Thus, claim 4 incorporates the elements of claim 1, including the power distributor described herein. Consequently, the combination of Bulgajewski '485 and Fuerst '823 does not reach the invention of claim 4.

For these reasons, claim 4 is allowable over Bulgajewski '485 in view of Fuerst '823. Applicant requests withdrawal of the rejection, and the allowance of claim 4.

Claims 9, 16, and 17 stand rejected under 35 U.S.C. §103(a) as allegedly obvious over Bulgajewski '485. The rejection is traversed.

The asserted modification in the Office action fails to identify any motivation, suggestion, or teaching in Bulgajewski '485 of the desirability of modifying Bulgajewski '485 to arrive at Applicant's invention. There has been no statement identified in Bulgajewski '485 as to the desirability of the asserted modification, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teaching of Bulgajewski '485, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner fails to provide

any particular findings related to any motivation, suggestion, or teaching of the desirability of modifying Bulgajewski '485 in the manner asserted by the Examiner. The Examiner simply relies upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicant's invention.

Specifically, the Examiner asserts that "it would have been obvious to one having ordinary skill in the art to modify Bulgajewski's invention to make the turn signal to abut the reflective element 21 and interconnected with the second power lead 68 as a design choice that would have been determined by the user having a desired result in mind." This is nothing more than a conclusion crafted to support an assertion. There is nothing in Bulgajewski '485 that suggests a benefit from the turn signal abutting the reflective element, or a benefit from a second power lead comprising a part of a power distributor operatively interconnected to a turn signal. Furthermore, there is nothing in Bulgajewski '485 that remotely suggests that the separate electrical connections of the heating element and the turn signal to the vehicle power supply is in any way inadequate or undesirable. The Examiner simply has failed to satisfy the legal requirements for an assertion of obviousness, and the rejection cannot be sustained.

Even if the modification were proper, as discussed above, Bulgajewski 485 does not disclose a mirror assembly having a power distributor for distributing power from a single electrical power connector to a plurality of functional elements. Thus, even if it were indeed obvious to modify Bulgajewski 485 in the manner asserted by the Examiner, the resulting inventions still would not reach the invention of claim 1. Claims 9, 16, and 17 depend, directly or indirectly, from claim 1. Thus, claims 9, 16, and 17 incorporate the elements of claim 1, including the power distributor described herein. Consequently, the asserted modification of Bulgajewski '485 does not reach the inventions of claims 9, 16, and 17.

For these reasons, claims 9, 16, and 17 are allowable over Bulgajewski '485. Applicant requests withdrawal of the rejection, and the allowance of claims 9, 16, and 17.

Claims 18-20 stand rejected under 35 U.S.C. §103(a) as allegedly obvious over Bulgajewski '485 in view of U.S. Patent No. 5,808,777 to Lynam et al. The rejection is traversed.

Lynam '777 discloses a rearview mirror system for a motor vehicle having an electrochromic reflective element and a heater for heating the reflective element in order to provide a uniform coloration of the reflective element surface to a desired level of reflectance.

The combination as asserted in the Office action fails to identify any motivation, suggestion, or teaching in either Bulgajewski '485 or Lynam '777 of the desirability of combining Bulgajewski '485 and Lynam '777 to arrive at Applicant's invention. There has been no statement identified in either Bulgajewski '485 or Lynam '777 as to the desirability of the asserted modification, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teaching of Bulgajewski '485 and Lynam '777, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner fails to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Bulgajewski '485 and Lynam '777. The Examiner simply relies upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicant's invention.

Specifically, the Examiner asserts that "it would have been obvious to one having ordinary skill in the art to modify Bulgajewski's invention to make the third power lead as taught by Lynam and interconnect it with the dimming device in order to securely operate the dimming device." Again, this is nothing more than a conclusion crafted to support an assertion. There is nothing in Bulgajewski '485 or Lynam '777 that suggests a benefit from adding, or a need to add, a third power lead or interconnecting it with a dimming device. There is nothing in Bulgajewski '485 or Lynam '777 that remotely suggests that the separate electrical connections of the heating element and the turn signal to the vehicle power supply in any way would be

Applicant: Don S. Rawlings
Filed: September 13, 2004
Page 15 of 15

Examiner: Leonid M. Fastovsky
Serial No.: 10/711,349

unworkable with a dimming device. The Examiner simply has failed to satisfy the legal requirements for an assertion of obviousness, and the rejection cannot be sustained.

Even if the combination were proper, the combination of Bulgajewski '485 with Lynam '777 would not reach Applicant's invention. At best, the combination of Bulgajewski '485 with Lynam '777 would result in a mirror assembly having a plurality of connectors providing power to individual functional elements, specifically a reflective element, a turn signal indicator, and an electrochromic dimming element. However, this is not the invention of claims 18-20.

As discussed above, Bulgajewski '485 does not disclose a mirror assembly having a power distributor for distributing power from a single electrical power connector to a plurality of functional elements. This element is not provided by Lynam '777. Claims 18-20 depend, directly or indirectly, from claim 1. Thus, claims 18-20 incorporate the elements of claim 1, including the power distributor described herein. Consequently, the combination of Bulgajewski '485 and Lynam '777 does not reach the invention of claims 18-20.

For these reasons, claims 18-20 are allowable over Bulgajewski '485 in view of Lynam '777. Applicant requests withdrawal of the rejection, and the allowance of claims 18-20.

It is respectfully submitted that all of the claims in the application are allowable over the prior art of record. Prompt notification of allowability is respectfully requested.

Respectfully submitted,
DON S. RAWLINGS

Dated: April 24, 2006

By: /Michael F Kelly/
G. Thomas Williams, Reg. No. 42,228
Michael F. Kelly, Reg. No. 50,859
McGARRY BAIR PC
171 Monroe Avenue, NW, Suite 600
Grand Rapids, Michigan 49503
616-742-3500

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